



County of San Bernardino

F A S

CONTRACT TRANSMITTAL

FOR COUNTY USE ONLY

<input checked="" type="checkbox"/> New <input type="checkbox"/> Change <input type="checkbox"/> Cancel	Vendor Code		SC	Dept.	A	Contract Number	
County Department Economic and Community Development			Dept. ECD		Orgn. ECD	Contractor's License No. N/A	
County Department Contract Representative Thomas R. Laurin, Director Jan Dustin, ECD Specialist I			Telephone 388-0808 388-0882		Total Contract Amount N/A		
Contract Type <input type="checkbox"/> Revenue <input type="checkbox"/> Encumbered <input type="checkbox"/> Unencumbered <input type="checkbox"/> Other:							
If not encumbered or revenue contract type, provide reason:							
Commodity Code		Contract Start Date		Contract End Date		Original Amount	Amendment Amount
Fund N/A	Dept. N/A	Organization N/A	Appr. N/A	Obj/Rev Source N/A	GRC/PROJ/JOB No. N/A	Amount	
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount	
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount	
Project Name Woodview Apartments County of S. B. Sale of Project 4 th District Cont. Type 2(b)				Estimated Payment Total by Fiscal Year FY Amount I/D FY Amount I/D TO BE PAID OUT OF ESCROW			

CONTRACTOR FULBRIGHT & JAWORSKI L.L.P.

Federal ID No. or Social Security No. 74-1201087

Contractor's Representative PHILIP NELSON LEE, ESQ., SENIOR COUNSEL

Address 865 Figueroa Street, 29th Floor, Los Angeles, CA 90017 Phone (213) 892-9321

Nature of Contract: *(Briefly describe the general terms of the contract)*

This is a Professional Services Agreement between the County of San Bernardino and the Law Firm of Fulbright & Jaworski L.L.P. to provide Bond Counsel Services with respect to proposed sale of the Woodview Apartments, and related matters.

All services to be provided under this Professional Services Agreement will be paid for by the purchaser of the Woodview Apartments.

The attached contract/agreement consists of 12 pages.

(Attach this transmittal to all contracts not prepared on the "Standard Contract" form.)

Approved as to Legal Form (sign in blue ink) County Counsel Date _____	Reviewed as to Contract Compliance Date _____	Reviewed for Processing Department Head Date _____
--	--	--

Auditor/Controller -Recorder Use Only	
<input type="checkbox"/> Contract Database	<input type="checkbox"/> FAS
Input Date	Keyed By

**PROFESSIONAL SERVICES AGREEMENT
BOND COUNSEL LEGAL SERVICES
WITH RESPECT TO THE**

**ASSIGNMENT AND ASSUMPTION AGREEMENT
RELATING TO THE PURCHASE OF WOODVIEW APARTMENTS
APARTMENTS PROJECT**

By and between

COUNTY OF SAN BERNARDINO

AND

FULBRIGHT & JAWORSKI L.L.P.

TABLE OF CONTENTS

Section 1.	SCOPE OF SERVICES	3
	Section 1.1 The provision of Bond Counsel services with respect to the issuance of the Bonds.....	3
	Section 1.2 Legal services not involving the issuance of Bonds.....	3
Section 2.	PERFORMANCE OF LEGAL SERVICES	4
Section 3.	COMPENSATION AND METHOD OF PAYMENT	4
	3.1 Legal Services Relating to Section 1.1	4
	3.2 Legal Services Relating to Section 1.2	4
Section 4.	EXTRA SERVICES	4
Section 5.	REPRESENTATIVE OF COUNTY	4
Section 6.	TERMINATION FOR CONVENIENCE.....	5
Section 7.	VIOLATION OF CONTRACT	5
Section 8.	OWNERSHIP OF DOCUMENTS	5
Section 9.	RELEASE OF NEWS INFORMATION.....	5
Section 10.	RIGHT TO AUDIT	6
Section 11.	NO BENEFIT TO ARISE TO LOCAL EMPLOYEE	6
Section 12.	NON-ASSIGNMENT	6
Section 13.	SUBCONTRACTING	6
Section 14.	INDEPENDENT CONTRACTOR.....	6
Section 15.	NOTIFICATION.....	7
Section 16.	ENTIRE AGREEMENT.....	7
Section 17.	AMENDMENTS; VARIATIONS	8
Section 18.	BINDING INTEREST	8
Section 19.	DISCRIMINATION	8
Section 20.	CONTRACT COMPLIANCE.....	8
Section 21.	COMPLIANCE WITH LAWS.....	8
Section 22.	CONFLICT OF INTEREST	8
Section 23.	FORMER COUNTY OFFICIALS	8
Section 24.	LIABILITY FOR LOSSES	9
Section 25.	INSURANCE REQUIREMENT	9
	Section 25.1 Workers' Compensation.....	9
	Section 25.2 Comprehensive General and Automobile Liability Insurance.....	9
	Section 25.3 Errors and Omissions Liability Insurance.	10
	Section 25.4 Professional Liability.....	10
	Section 25.5 Additional Named Insured.....	10
	Section 25.6 Waiver of Subrogation Rights.....	10
	Section 25.7 Policies Primary and Non-Contributory.....	10
	Section 25.8 Proof of Coverage.....	10
Section 26.	INSURANCE REVIEW	11
Section 27.	INVALID CONDITIONS	11
Section 28.	COUNTERPART EXECUTION	12

**PROFESSIONAL SERVICES AGREEMENT
BOND COUNSEL LEGAL SERVICES
WITH RESPECT TO THE
ASSIGNMENT AND ASSUMPTION AGREEMENT
RELATING TO THE PURCHASE OF WOODVIEW APARTMENTS
APARTMENTS PROJECT**

This Contract is made and entered into this 23rd day of November, 2004, by and between the County of San Bernardino, Department of Economic and Community Development, hereinafter referred to as COUNTY, and the LAW FIRM of Fulbright & Jaworski L.L.P., hereinafter referred to as LAW FIRM.

WHEREAS, COUNTY has determined that it is in need of legal services relating to the sale of the Woodview Apartments Project (the "Project") to SSR Realty Advisors, Inc. (the "Transferee") by LBK, L.P., a Delaware limited partnership (the "Transferor"), which Project was financed with the County's \$17,800,000 Variable Rate Demand Multifamily Housing Mortgage Revenue Bonds, Issue of 1985(Woodview Apartments Project) (the "Bonds"), and any related matters; and

WHEREAS, the County has determined that it is in the public interest and for the public benefit that the County assist the owner in order to preserve economic viability of the lower-income multifamily housing units provided by the Project; and,

WHEREAS, LAW FIRM is qualified by means of background and experience to provide these services.

NOW, THEREFORE, the parties do hereby agree and contract as follows:

Section 1. SCOPE OF SERVICES

Section 1.1 The provision of Bond Counsel services with respect to the issuance of the Bonds.

Reserved

Section 1.2 Legal services not involving the issuance of Bonds.

General legal representation and advice relating to any Project, or the Project as requested by the County, including assisting the County with matters related to Project, or reviewing matters not directly related to the issuance of Bonds of the Project, attend all meetings, participate in all conference calls and hearings including those with the Board of Supervisors, any financing team and bond closing as requested by the County. In addition, preparation and/or review

of all resolutions, notices and other documents required to complete the transaction contemplated by the engagement, including any legal opinion.

Section 2. PERFORMANCE OF LEGAL SERVICES

LAW FIRM shall perform the legal services as described in Section 1 as requested by the County. The principal attorney managing the delivery of legal services to the COUNTY will be Philip Nelson Lee, Senior Counsel in the LAW FIRM's Los Angeles, California, office. Richard Kornblith a tax partner in the Los Angeles office will assist Mr. Lee when necessary with tax advice.

Section 3. COMPENSATION AND METHOD OF PAYMENT

Section 3.1 Legal services relating to Section 1.1 hereof.

Reserved

Section 3.2 Legal services relating to Section 1.2 hereof.

For performance of legal services under Section 1, the Law Firm will be compensated on an hourly basis. Mr. Lee's hourly rate is \$405.00 per hour and the hourly rate for Mr. Kornblith is \$440.00, subject to change as agreed to by the County. If any other attorney in the Law Firm is requested to perform work under Section 1.2, the Law Firm will provide the County such attorney's hourly rate and obtain the County's consent to such rate.

In addition, the Law Firm shall be reimbursed for any reasonable costs advanced by it on behalf of the County, including delivery and messenger services, duplication cost and expenses for travel outside of the State of California, if any, at the request of the County.

Notwithstanding the preceding, at the request of the County and with the agreement of the Law Firm, the above-terms and conditions shall be subject to modification with respect to any specific transaction.

All requests for payment shall be submitted to the County. Payment requests must include an invoice and a summary justifying the costs being billed, the tasks accomplished and the products being provided. However, the County and the Firm agree that the legal services fee shall be payable solely by the Owner.

Section 4. EXTRA SERVICES

Services not within the terms of this Contract shall not be rendered by LAW FIRM unless such extra services are first authorized in writing by COUNTY.

Section 5. REPRESENTATIVE OF COUNTY

The Director of the Department of Economic and Community Development (the "Director"), or the designee, shall represent COUNTY in matters pertaining to the services to be rendered under this Contract and shall be the final authority in all matters pertaining to the

services to be rendered under this Contract and shall be the final authority in all matters pertaining to the project.

Section 6. TERMINATION FOR CONVENIENCE

The performance of work under this Contract may be terminated in whole or in part when such action is deemed by COUNTY to be in its best interest. Termination of work hereunder shall be effected by delivery to LAW FIRM of a Notice of Termination specifying the extent to which performance of work under this Contract is terminated, and the date upon which such termination becomes effective.

After receipt of a Notice of Termination, and except as otherwise directed by COUNTY, LAW FIRM shall: (a) Stop work under this Contract on the date and to the extent specified in Notice of Termination (b) Deliver to the COUNTY all completed work and work in progress (c) Complete performance of such part of the work as shall not have been terminated by the Notice of Termination.

Section 7. VIOLATION OF CONTRACT

In the event that LAW FIRM violates any of the terms and conditions of this Contract, COUNTY shall give written notice of violation and demand correction. If, within ten (10) days from receipt of written notice, LAW FIRM has not corrected the violation of shown acceptable cause, COUNTY has the right to immediately terminate this Contract.

Section 8. OWNERSHIP OF DOCUMENTS

All documents prepared by LAW FIRM under this Contract shall be considered the property of COUNTY. Upon payment for services performed by LAW FIRM, said documents and materials shall be delivered to COUNTY by LAW FIRM; however, LAW FIRM may take and retain such copies of said documents and materials as desired.

Section 9. RELEASE OF NEWS INFORMATION

No news releases, including photographs, public announcements or confirmation of same, or any party of the subject matter of this Contract or any phase of any program hereunder shall be made without prior written approval of COUNTY.

Section 10. RIGHT TO AUDIT

COUNTY, the Comptroller General of the United States or any of their duly authorized representatives shall have access to any books, documents, papers and records of LAW FIRM which are directly pertinent to the purpose of making an audit or any examination. All such books and records shall be retained for such periods of time required by law, provided, however, notwithstanding any shorter periods of retention, all books, records and supporting detail shall be retained for a period of at least five (5) years after the expiration of the terms of this Contract.

Section 11. NO BENEFIT TO ARISE TO LOCAL EMPLOYEE

No member, officer, or employee of COUNTY, or its designees or agents, no member of the governing body of COUNTY, and no other public official who exercises any functions or responsibilities with respect to the program during his tenure or for one year thereafter, shall have any interest, direct or indirect in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under this Contract.

Section 12. NON-ASSIGNMENT

This Contract may not be assigned nor the rights and obligations otherwise transferred to a third party by LAW FIRM unless authorized by COUNTY; any attempted assignment or transfer shall be void.

Section 13. SUBCONTRACTING

No performance of this Contract or any portion thereof may be subcontracted by LAW FIRM without the prior written consent of the County. Any attempt by LAW FIRM to subcontract any performance of the terms of this Contract without such consent shall be null and void and shall constitute a breach of terms of this Contract. In the event of such a breach, this Contract may be terminated forthwith.

Section 14. INDEPENDENT CONTRACTOR

This Contract is by and between COUNTY and LAW FIRM and is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association as between COUNTY and LAW FIRM. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

LAW FIRM is and shall be deemed to be at all times an independent contractor. COUNTY shall not be liable for any act or acts of LAW FIRM and nothing herein contained shall be construed as creating the relationship of employer and employee between the parties.

LAW FIRM agrees to be solely responsible for all matters relating to payment of its employees, including compliance with Social Security, withholding, and payment of any and all Federal, State and local and personal income taxes, disability insurance, unemployment, and

other taxes for such persons, including any related assessments or contributions required by law and all other regulations governing such matters.

LAW FIRM shall not be reimbursed for any travel time conducted pursuant to this Contract, except as provided in Section III.

LAW FIRM shall not be reimbursed for any vacation, sick leave or overtime.

The employees and agents of each party, and those of their respective customers, shall, while on the premises of the other, comply with all rules and regulations of the premises, including security requirements.

Section 15. NOTIFICATION

All notices, memoranda, reports, drafts, and communications sent to COUNTY under this Contract shall be sent to the following address, unless authorized to be sent elsewhere by COUNTY:

County of San Bernardino
Department of Economic and Community Development
290 North "D" Street, 6th Floor
San Bernardino, CA 92415-0040
Attention: Thomas R. Laurin, Director

All such being sent to LAW FIRM shall be sent to:

Fulbright & Jaworski L.L.P.
865 South Figueroa Street, 29th Floor
Los Angeles, CA 90017-2571
Attention: Philip Nelson Lee, Senior Counsel

Any such notices, demands, invoices and written communication by mail shall be conclusively deemed to have been received by the addressee five (5) days after the deposit thereof in the United States Mail, postage prepared and properly addressed as noted above.

Section 16. ENTIRE AGREEMENT

The writing with attachments, embodies the whole of the contract between the parties hereto. This Contract supersedes any and all other contracts either oral or in writing, between the parties with respect to the subject matter herein. Each party to this Contract acknowledges that no representations, by any parties which are not embodied herein and that no other contract, statement or promise not contained in this Contract shall be valid and binding. There are no oral agreements not contained herein.

Section 17. AMENDMENTS; VARIATIONS

Except as herein provided, addition or variation of the terms of this Contract shall not be valid unless made in the form of a written amendment to this Contract formally approved and executed by the parties.

Section 18. BINDING INTEREST

This Contract shall be binding on the parties and on their respective successors in interest, heirs and assigns.

Section 19. DISCRIMINATION

No person shall, on the grounds of race, sex, creed, color, religion, or national origin, be excluded from participating in, be refused the benefits of, or otherwise be subjected to discrimination in any activities, programs, or employment by LAW FIRM. LAW FIRM, will complete and submit to ECD the Contractor's EEG Certification form prior to the start of work under this Contract.

Section 20. CONTRACT COMPLIANCE

LAW FIRM shall make every effort to ensure that the professional services covered by this Contract shall provide equal employment and career advancement opportunities for minorities and women. LAW FIRM agrees to comply with the provisions of the Contract Compliance Program of the County of San Bernardino and rules and regulations adopted pursuant thereto. LAW FIRM shall comply with Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, Title VII of the Civil Rights Act of 1964, the California Fair Housing and Employment Act, and the San Bernardino County Policy No. 15-01, as revised and other applicable federal, state and COUNTY laws, regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.

Section 21. COMPLIANCE WITH LAWS

All parties agree to be bound by applicable Federal, State and local laws, ordinances, regulations and directives as they pertain to the performance of this Contract. This contract is subject to and incorporates the terms of the ACT: 24 Code of Federal Regulations, Part 570, Chapter V and; U.S. Office of Management and Budget Circular A-87.

Section 22. CONFLICT OF INTEREST

No COUNTY employee whose position in COUNTY enables him to influence the award of this Contract or any competing agreement, and or spouse or economic dependent of such employee shall be employed in any capacity by LAW FIRM herein, or have any other direct or indirect financial interest in this Contract.

Section 23. FORMER COUNTY OFFICIALS

LAW FIRM agrees to provide or has already provided information on former County of San Bernardino Administrative Officials (as defined below) who are employed by or

represent LAW FIRM. The information provided includes a list of former County Administrative Officials who terminated COUNTY employment within the last five years and who are now officers, principals, partners, associates or members of the business. The information also includes the employment with or representation of LAW FIRM. For purposes of this provision, "County Administrative Official" is defined as a member of the Board of Supervisors or such Officer's staff, County Administrative Officer or member of such Officer's staff, County Department or Group Head, Assistant Department or Group Head, or any employee in the Exempt Group, Management Unit or Safety Management Unit.

Section 24. LIABILITY FOR LOSSES

To save and protect the COUNTY from any loss, liability, or other damage that may result from any breach by THE FIRM of its professional duties of care and loyalty to the COUNTY in providing legal services under this Agreement, THE FIRM represents that it currently maintains (and THE FIRM agrees to give the COUNTY prompt notice of any cancellation of) professional liability insurance with coverage of not less than \$20,000,000 per occurrence and in the aggregate, subject to deductibles and retention, and THE FIRM agrees that such insurance shall in no way limit THE FIRMS liability to the COUNTY for any loss, liability, or damage arising out of this Agreement for which THE FIRM would otherwise be liable under California law.

Section 25. INSURANCE REQUIREMENT

Without in anyway affecting the indemnification herein provided and in addition thereto, the LAW FIRM shall secure and maintain throughout the contract the following types of insurance with limits as shows:

Section 25.1 Workers' Compensation. A program of Workers' Compensation insurance or a state-approved Self-Insurance Program in an amount and form to meet an applicable requirements of the Labor Code of the State of California, including Employers Liability with \$250,000 limits, covering an persons providing services on behalf of the Contractor and an risks to such persons under this Agreement.

If Contractor has no employees, it may certify or warrant to County that it does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the requirement for Workers ' Compensation coverage will be waived by the County's Risk Manager.

With respect to Contractors that are non-profit corporations organized under California or Federal law, volunteers for such entities are required to be covered by Workers' Compensation insurance. If the County's Risk Manager determines that there is no reasonably priced coverage for volunteers, evidence of participation in a volunteer insurance program may be substituted.

Section 25.2 Comprehensive General and Automobile Liability Insurance. This coverage to include contractual coverage and automobile liability coverage for owned, hired, and non-owned vehicles. The policy shall have combined single

litmus for bodily injury and property damage of not less than one million dollars (\$1,000,000).

Section 25.3 Errors and Omissions Liability Insurance. Combined single limits of one million dollars (\$1,000,000) for bodily injury and property damage and three million dollars (\$3,000,000) in the aggregate; or

Section 25.4 Professional Liability. Professional Liability insurance with limits of at least one million dollars (\$1,000,000) per claim or occurrence.

Section 25.5 Additional Named Insured. All policies, except for the Worker's Compensation coverage and Errors and Omissions and Professional Liability, shall contain additional endorsements naming the COUNTY and its officers, employees, agents and volunteers as additional named insureds with respect to liabilities arising out of the performance of services hereunder.

Section 25.6 Waiver of Subrogation Rights. Except for the Errors and Omissions and Professional Liability, LAW FIRM shall require the carriers of the above required coverages to waive all rights of subrogation against the COUNTY, its officers, volunteers, employees, agents, contractors and subcontractors.

Section 25.7 Policies Primary and Non-Contributory. All policies required above are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by COUNTY.

Section 25.8 Proof of Coverage. LAW FIRM shall immediately furnish certificates of insurance to the County evidencing the insurance coverage, including endorsements, above required prior to the commencement of performance of services hereunder. These certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the County, and LAW FIRM shall maintain such insurance from the time LAW FIRM commences performance of services hereunder until the completion of such services. Within sixty (60) days of the commencement of this Contract, the LAW FIRM shall furnish certified copies of the policies and endorsements.

Section 26. INSURANCE REVIEW

The above insurance requirements are subject to periodic review by COUNTY. COUNTY's Risk Manager is authorized, but not required, to reduce or waive any of the above insurance requirements whenever the Risk Manager determines that any of the above insurance is not available, is unreasonably priced, or is not needed to protect the interests of COUNTY. In addition, if the Risk Manager determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Risk Manager is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against COUNTY, inflation, or any other item reasonably related to COUNTY's risk.

Any such reduction or waiver for the entire term of this Contract and any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Contract. LAW FIRM agrees to execute any such amendment within thirty (30) days of receipt.

Section 27. INVALID CONDITIONS

If any one or more of the terms, provisions, sections, promises, covenants or conditions of this Contract shall to any extent be judged invalid, unenforceable, void or voidable for any reason whatsoever, by a court of competent jurisdiction, each and all of the remaining terms, provisions, sections, promises, covenants and conditions of this Contract shall be affected thereby, and shall be valid and enforceable to the fullest extent permitted by law.

In the event that this Contract or any provision thereof shall be declared null and void by a court of competent jurisdiction, COUNTY or any of their respective officers, agents of employees, or members of the San Bernardino County Board of Supervisors shall not be liable to LAW FIRM or to any person holding under or through him for any losses or damages of any nature whatsoever suffered or claimed to be suffered by LAW FIRM or such person by reason of such determination.

* * * * *

Section 28. COUNTERPART EXECUTION

This Contract shall be executed in counterparts, each of which so executed shall be deemed an original irrespective of the date of the execution, and said counterparts, together shall constitute one and the same contract.

IN WITNESS WHEREOF, the parties have caused this Contract to be executed as of the day and year first written above.

COUNTY OF SAN BERNARDINO

FULBRIGHT & JAWORSKI L.L.P.

By: _____
DENNIS HANSBERGER, Chairman,
Board of Supervisors

By: _____
PHILIP NELSON LEE, Senior Counsel

Dated: _____

Dated: _____

SIGNED AND CERTIFIED THAT A COPY OF THIS
DOCUMENT HAS BEEN DELIVERED TO THE
CHAIRMAN OF THE BOARD

J. RENEÉ BASTIAN
Clerk of the Board of Supervisors
of the COUNTY of San Bernardino

By: _____

Dated: _____

APPROVED AS TO LEGAL FORM:

RONALD D. REITZ
County Counsel

By: _____
MICHELLE D. BLAKEMORE
Deputy County Counsel

Dated: _____